NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

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Ms. Cynthia L. Johnson
Director, Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420
401 14th Street, S.W.
Washington, D.C. 20227

Dear Ms. Johnson:

The National Community Reinvestment Coalition (NCRC), a national nonprofit representing more than 630 member organizations devoted to the reinvestment of bank credit and financial services in local communities, is pleased to submit comments on proposed rule 31 CFR Part 208 requiring most Federal payments to be conveyed electronically, through Electronic Funds Transfer, effective January 2, 1997. NCRC's members are leaders in community reinvestment and include Chicanos Por La Causa, Coalition of Neighborhoods, First Nations Development Institute, Home Education Livelihood Program, The Enterprise Foundation, LISC, and the Center for Community Change.

Our comments are presented in three categories: Recommendations on the EFT '99 Process; Comments and Considerations on Electronic Transfer Accounts; Select Comments in Response to Specific Treasury Requests.

RECOMMENDATIONS ON THE EFT '99 PROCESS

A primary policy objective of the Treasury Department's EFT '99 program is to introduce "unbanked" individuals to bank depository relationships through EFT or the Electronic Transfer Account. A primary objective of NCRC is to expand equitable banking services and reinvestment practices in the neighborhoods and communities it represents. Accordingly, NCRC's comments on the EFT '99 process contemplate the introduction of the "unbanked" to mainstream financial channels as an opportunity for personal and community development, rather than simply as a matter of more convenience for individuals and enhanced service opportunities for banks.

Above all, NCRC urges the Department to exert leadership to ensure that "unbanked" individuals are not stranded in the status quo of poor, overpriced services once EFT '99 has run its course. The financial mainstreaming of "unbanked" individuals will require far more than simply enlisting them in Electronic Transfer Accounts (ETAs). It will require education and technical assistance, monetary resources, regulatory vigor, and service innovation.

We have appreciated the Department's receptivity to date on each of these critical points. Over and above our comments on the proposed rule, NCRC urges Treasury to further its leadership through the following bold but necessary measures:

EFT #032

Extend the Intensive Public Education Period Through Fiscal Year 2000.

In view of the changes mandated by the Electronic Funds Transfer Act, the centrality of monetary transactions to a participatory democracy, and Treasury's intention to assign ETAs no later that Jan. 2, 2000, post-deadline education must be as thorough and determined as the pre-deadline education that takes place prior to EFT.

Increase Financing for the Public Education Campaign and Technical Assistance Grants to Community Groups

Treasury's current $10 million commitment to public education is a generous beginning, a good start. But $10 million more should be allocated to the campaign, including $5 million to support extended educational efforts through FY 2000, and another $5 million to support the hands-on educational efforts of established consumer and community groups and community development credit unions with experience serving low-income people. This funding was recommended unanimously at the community group session of the Department's November 21 Community Outreach Initiative Meeting.

ETA Bid Process

NCRC advocates that only those insured financial institutions with a current "Outstanding" CRA rating should be eligible to bid on the Electronic Transfer Account that Treasury proposes to design. EFT '99 represents an extraordinary windfall opportunity for financial institutions, and only those banks with a demonstrated record and current practice of outstanding community reinvestment should be encouraged to benefit from it. Treasury should also monitor the current CRA performance (that is, since the most recent ratings of all respondents) to the ETA bidding process. In addition, ETA bid winners should be regulated for compliance with a no-cost provision of the basic or "featureless" ETA account.

In drafting its guidelines for the ETA bids, Treasury should provide incentives for service innovations for everyone, but especially the "unbanked." Among the service innovations NCRC recommends in specific comments below are money order-capable ATMs to avoid overdrafts; a role for Individual Development Accounts in the structuring of a savings feature linked to the Treasury-designated ETA; mobile banking units to serve rural and reservation areas; in-store and other non-traditional banking venues in low-income neighborhoods; and a possible role for U.S. Postal Service branches as EFT access points in disinvested neighborhoods. Currency exchangers ("check cashers" in a pre-EFT environment) should be regulated at the state level for usurious exchange rates and fair lending practices, with a view toward reforming the industry to the point where limited EFT participation may be feasible if the number of "unbanked" individuals remains high in the years following January 2000.

Voluntary Accounts

NCRC calls on the Department to regulate voluntary accounts now being established among recipients of federal payments and check cashers. The Department has not used its authority to regulate these accounts although media reports abound of usurious interest rates at check cashing outlets. It is imperative that voluntary accounts are regulated immediately since EFT is more than two years away.

COMMENTS AND CONSIDERATIONS ON ELECTRONIC TRANSFER ACCOUNTS

ETAs Must be Low Fee Accounts

The Treasury Department should aggressively regulate low fees across the spectrum of EFT accounts, as well as no fees for the basic ETA, rather than relying on competition within the financial service industry to rationalize EFT pricing structures. EFT '99 is both a windfall opportunity for the financial services industry, and an opportunity for the inclusion of low- to moderate-income individuals in mainstream financial channels. The windfall for banking is assured; the inclusion, especially of "unbanked" and other EFT-distressed groups, is not assured and may well be at risk if EFT fees are not within reach of everyone.

The basic ETA offered by the Department should be free, with transaction features available at reasonable cost. The Department can rely on competition to keep feature costs low, but the starting point must be Treasury's determination to bring a free basic ETA into being through the ETA bid process and to reign in any unreasonable EFT fees through aggressive regulation if necessary.

The mainstreaming of "unbanked" individuals means that many initial ETA holders will experience difficulty in managing their account, raising the likelihood of penalty and inconvenience fees which may drive new EFT beneficiaries permanently from the mainstream financial channels where Treasury is charged with placing them. Therefore, distinct measures should be taken to minimize the impact of overdraft fees and other surcharges on first-time EFT recipients.

A partial solution to ETA overdraft fees is for Treasury to award ETA bids to only those financial institutions that will build money order-capacity into their EFT-capable ATMs. Though this measure obviously will not eliminate ETA overdrafts, ATMs can issue money orders at a reasonable cost, while denying money-orders in cases when there are insufficient funds in the ETA accounts. This feature will appeal to individuals who distrust the banking system because of previous experience with overdraft penalty fees. In addition, the ATM issuance of money orders on ETAs will offer a security feature in certain neighborhoods that should not be underestimated.

EFT accounts, including the basic ETA, should be structured to accept unlimited free deposits and 10 free withdrawals per month.

Savings Features of EFT Accounts

NCRC favors a savings feature in ETAs. EFT '99 represents an unrivaled opportunity to foster a savings infrastructure in low-income communities. Treasury should be explicit in soliciting an affordable savings feature in its Request For Proposals on ETAs. The Department's evaluation of the competing ETA bids should encourage financial agents to offer free transfers from the basic ETA to a limited but separate savings account. The savings feature should be offered at a low cost, and should offer a maximum of four free withdrawals and four free deposits per month. Interest should accrue on savings balances that have been in effect for three months.

Finally, to facilitate long-term savings and the accumulation of remunerative assets, the Treasury Department should provide incentives for the creation of the higher-return instruments of Individual Development Accounts (IDAs). These restricted accounts should be set up so that the financial agent can receive CRA credit under the service test for holding IDAs. Alternatively, the lending institutions can earn CRA credit under the investment test for financing a community nonprofit group to manage IDAs held by the lender or for providing a match to amounts saved in IDAs maintained outside the province of the particular lender. In either case, the lender would receive revenue from holding these long-term accounts, and these revenues would be the reason for keeping the accounts low-cost or no-cost and interest-bearing under Treasury's RFP criteria for ETAs.

The United States Post Office as a Point of Access

Providing incentives for an IDA savings feature in Treasury-designated ETAs will also allow NCRC to support the U.S. Postal Service as a potential EFT access point. NCRC is very concerned that EFT accounts held by the Postal Service would not be federally insured. However, accounts that were held by financial institutions yet accessed through the U.S. Postal Service would still be federally insured. NCRC urges the Treasury Department to continue exploratory talks and appropriate negotiations with the Postal Service, with a view toward establishing a Postal role in EFT if the number of "unbanked" individuals remains high after January 2000, or if poverty surcharges are associated with areas of restricted access to EFT-capable venues after that date.

Promote Mobile Banking in Addition to Granting Geographic Waivers

The Treasury Department is to be applauded for extending geographic waivers to reservations and rural areas. To ensure that such regions are not left out of EFT developments in future, however, NCRC recommends that the Department provide incentives for mobile unit banking through the ETA bid process. Financial institutions that successfully commit to mobile unit banking as a way of overcoming geographic distance should receive CRA credit.

A financial incentive may also make sense, given the heavy capital investment required for setting up, securitizing, and in many cases winning regulatory approval of mobile banking units. One possible financial incentive is cost-sharing among multiple financial institutions that would collaborate to capitalize, staff and service ATM- and EFT/ETA-capable mobile banking units. NCRC recommends that Treasury structure partnership incentives for mobile units serving remote rural and reservation areas into the RFP for ETAs. In addition, incentives should be offered for serving lower income urban neighborhoods where most residents may be elderly, lack automobiles, or otherwise experience restricted mobility.

Treasury is also encouraged not to get bogged down in definitions of "remote" and "rural," given that no definition has ever proved ideal. The Census Bureau's definition of "frontier" counties (population six or fewer per square mile) should be an adequate criterion for offering incentives for mobile unit banking in rural areas, while similar incentives should be available to any financial institution that will serve Indian reservations with a mobile unit.

Through the competitive bidding process for ETA accounts, Treasury should also provide incentives for in-store bank branches in low- to moderate-income areas for EFT/ETA purposes.

Many urban neighborhoods have been disinvested to the extent that their choices for ETA access could otherwise be limited to currency exchangers and their inevitable poverty surcharges, or few-and-far-between ATMs that act as magnets for the criminal element in some neighborhoods. People whose EFT choices are so limited simply will not participate in EFT '99, nor should they. Institutionalizing a wider range of choices is one critical task of EFT '99.

Debit Cards

Online debit cards should be included as a cost-free basic attribute of the ETA account, but they should not be anyone's lone option for accessing EFT accounts. They should be only one option along with money orders and checks; and they should be covered by the $50 liability limit for unauthorized use already applied to credit cards under the Truth in Lending Act.

Consumer Protections

The same consumer protections available to other financial institution account holders should be available to ETA holders. In particular, EFT account balances should not be attachable by creditors. The Department has a vested interest in monitoring bank compliance with this provision, which should be enshrined in the final rule. Creditor attachment is a sure way to drive newly banked individuals from mainstream financial channels.

Waiver Procedures

NCRC agrees with the liberal nature of the waiver procedures. Since banking is a new and intimidating prospect for low-income recipients of federal benefits, the waiver procedure should involve self-certification. NCRC agrees that waivers should be granted for those who declare that EFT would pose geographical or financial hardships. Physical disability should also be grounds for waivers. However, we believe that waiver provisions should be extended to recognize hardships posed by language and literacy barriers and mental disability. We disagree with the Treasury Department's rationale that these characteristics are not significant hindrances to electronic benefit transfers.

If EFT accounts are low-cost, they will offer great benefits for low-income recipients of federal payments. They may be an entry point for closer relationships with lending institutions that may ultimately lead to substantial increases in home purchase or small business loans to low-income individuals. Notwithstanding the potential benefits of EFT, NCRC urges the Treasury Department to offer maximum choice for recipients of federal benefits. While the Department faces legislative constraints preventing EFT from being an optional choice for recipients of federal payments, it can make the waiver procedure self-certifying and extend waivers to other groups such as the mentally disabled who would truly face hardships under EFT.

SELECT COMMENTS IN RESPONSE TO SPECIFIC TREASURY REQUESTS

In response to specific requests for comments from the Department, NCRC offers the following:

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E. Section 208.5 - Access to Accounts Provided by Treasury [page 48721-48722]

NCRC is among those community and consumer organizations that urge Treasury to permit only Federally insured financial institutions to act as an agent for Treasury to hold EFT accounts for individuals who do not have such accounts. Specifically, currency exchangers should not be allowed to function as finance agents of Treasury, nor should they be permitted to partner with financial institutions in the provision of EFT/ETA funds. The primary reason for our disapproval of currency exchangers in EFT '99 is their lack of enforceable fiduciary accountability to consumers. In addition, the irregularity of their interest rates and practices under varying state regulations ensure steep poverty surcharges in some states.

Cost consideration should be the basic ingredient in the basic ETA structure - namely, no cost should be associated with a service many unbanked citizens now enjoy for nothing and which will save the government and financial industry hundreds of millions of dollars. The best standard for weighing trade-offs between increased costs and enhanced account features is the promotion of a savings capacity. Savings features - including capability to accept deposits other than Federal benefit payments, account inquiries, and a linked but separate IDA - should be free or as low-cost as possible. Convenience features, such as third party payment capabilities, and overlimit account inquiries or withdrawals, should be for-fee services.

A broad geographical range of access points is vital for the EFT-participation of all citizens, but especially for disinvested urban areas and remote rural locales. Treasury can meet access needs in underserved areas by providing incentives for in-store bank branches, mobile units, point-of-sale terminals, ATMs and other EFT venues. In addition, NCRC urges Treasury to maintain dialogue on a potential role for the U.S. Postal Service as a widely available EFT venue if events should warrant such a role after January 2000.

This concludes NCRC's comments. Any questions about them should be directed to NCRC Vice President of Research Joshua Silver at 202-628-8866.

Sincerely,

John E. Taylor, President and CEO